

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

SNMP RESEARCH INC. & SNMP)	
RESEARCH INTERNATIONAL INC.,)	Case No. 3:20-cv-451
)	
<i>Plaintiffs,</i>)	Judge Atchley
)	
v.)	Magistrate Judge Poplin
)	
BROADCOM INC., BROCADE)	
COMMUNICATIONS SYSTEMS LLC, &)	
EXTREME NETWORKS INC.,)	
)	
<i>Defendants.</i>)	

ORDER

In accordance with the Court’s Memorandum Opinion and Order, all parties to this litigation are **ORDERED** to mediation. Eastern District of Tennessee Local Rule 16.4 (a) provides:

With or without the agreement of the parties in any civil action, except those exempted pursuant to Local Rule 16.3, the Court may refer all or part of the underlying dispute to Mediation pursuant to this Local Rule . . . Once an order has been entered directing that the parties participate in a Mediation, the parties will be required to do so unless the Court enters an order withdrawing the Mediation Reference.

Pursuant to Local Rule 16.4, this case is hereby **REFERRED** to mediation. The first mediation conference **SHALL** take place within **90 days** of this Order.

Local Rule 16.4 requires the Court to approve the persons who serve as mediators in cases pending in the Eastern District of Tennessee. E.D. Tenn. L.R. 16.4(c). The Eastern District of Tennessee has established certain qualifications for persons who mediate cases in this district, and generally, the parties will select a mediator from the list of persons who the Court has deemed to have met these qualifications. *See* E.D. Tenn. L.R. 16.4(d). In its Motion to Compel Mediation

[Doc 164], Extreme requests that the parties be granted the flexibility to choose a mediator outside of the Federal Mediation Program. Due to the specialized nature of the parties' dispute, the Court believes mediation may be more productive if the parties are permitted to work with a mediator of their choosing. Accordingly, the Court **ORDERS** the parties to select a mediator and file a notice of their choice of mediator and the date set for mediation within **21 days** of the entry of this Order. If the parties cannot agree to a mediator, the provisions of Local Rule 16.4(o) shall apply, with the exception that the parties may propose mediators that are not on the Court's approved list of mediators.

It is further **ORDERED** that the parties, their representatives, and/or actual decision-makers for all parties be present for the mediation. At least one attorney for each party **SHALL reserve at least five days for mediation**, or such time as may be necessary to thoroughly and in good faith address the issues in this case. Any questions regarding who must be present for the mediation must be taken up with the mediator at least 72 hours before the mediation conference. The parties are **DIRECTED** to participate in mediation in good faith.

The parties **SHALL** remind the mediator of the obligation to file a Mediation Report within **seven days** of the conclusion of each mediation conference, as set forth in Local Rule 16.4(m).

Additionally, the parties are **ORDERED** to file a joint report no later than **three days following completion of each mediation conference** as to whether some or all of their claims have been settled.

Due to the recent continuation of all deadlines and the trial of this case, the earliest deadline set in the Second Amended Scheduling Order [Doc. 149] does not expire until March 8, 2023. Accordingly, the Second Amended Scheduling Order shall remain in place at this time. If mediation is unsuccessful, the parties should be prepared to comply with existing deadlines.

Notwithstanding any other Rule to the contrary, the deadline for Defendants to file an answer or renewed motion to dismiss for failure to state a claim is **STAYED** pending mediation. The Court will set a deadline for renewed responsive pleadings as it deems necessary based on the progress of mediation and/or the parties' joint status reports.

SO ORDERED.

/s/ Charles E. Atchley, Jr.

CHARLES E. ATCHLEY, JR.

UNITED STATES DISTRICT JUDGE